

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13143 of 2023

=====

Prem Raj @ Sonu Kumar Son of Akhilesh Kumar @ Mohan Prasad, Resident of Mohalla- Post- Mortem Road, Nawada, Police Station- Town (Nawada), District- Nawada.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Excise Department, Bihar, Patna.
2. The District Magistrate, Nawada Collectorate, Dist- Nawada (Bihar).
3. The Superintendent of Police, Nawada, District- Nawada (Bihar).
4. The Officer-in-Charge, Town (Nawada), District- Nawada (Bihar).

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Rajeev Nayan, Advocate
For the Respondent/s	:	Mr. Vivek Prasad, G.P.-7
		Ms. Roona, AC to GP-7
		Mr. Sanjay Kumar, AC to GP-7
		Ms. Manisha Singh, AC to GP-7
		Ms. Supriya, AC to GP-7

=====

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

4 23-11-2023 In the instant petition petitioner has prayed for the following reliefs:

“I. For issuance of an appropriate writ/order / direction commanding respondents to release the Bran, Raisins Dry Yeast and sealed shop & go down of petitioner, in favour of petitioner which was seized in connection with Town (Nawada) P.S. case no.-219 of 2022 dated 11/03/2022, for the offence under Section 30(c)/41 of the Bihar Prohibition & Excise Act, 2016.



Petitioner is the sole claimant and owner of the seized goods (Rawa, Raisins & Dry Yeast), and renter of shop and go down.

II. For issuance of an appropriate writ/order/direction to the respondent authorities not to proceed with further by issuing notice or initiating confiscation proceeding with regard to alleged seized goods, as mentioned in seizure list, i.e. wet jaggery (Rawa), Raisins Dry Yeast.

III. For issuance of any other appropriate writ/writs, order/orders, direction/directions for grant of other reliefs to which the petitioner may be found entitled under the facts & circumstances of the case.”

2. The petitioner was into the trading with a certain items like Bran, Raisins, Dry Yeast. He was a holder of a large quantity of the above mentioned raw materials which could be utilized for the purpose of the manufacture of country liquor/liquor, therefore, a case was registered in Town (Nawada) P.S. Case No.219 of 2022 on 11.03.2022, for the offences under Section 30(c)/41 of the Bihar Prohibition & Excise Act, 2016. Petitioner is the sole claimant and owner of the seized goods like a Rawa, Raisins and Dry Yeast. The Excise/Police Authorities were stated to have seized material as well as sealed



shops / godown of the petitioner.

3. Learned counsel for the petitioner submitted that there is no material evidence to establish that these seized goods like Wet Jaggery (Rawa), Raisins and Dry Yeast are not for the purpose of manufacture of countrymade liquor/ liquor. Therefore, the presumption and assumption of the seizing Authority to the extent that the aforementioned material could be utilized for the purpose of countrymade liquor/ liquor is incorrect. Therefore, the petitioner is entitled to release of seized goods as well as desealing of a shops and godown.

4. Per contra learned counsel for the respondent resisted the aforementioned contention and submitted that having regard to the status of the seized goods like a Wet Jaggery, Rawa, Raisins and Dry Yeast, it is evident that they are not consumable, on the other hand it can be utilized only for the purpose of manufacture of countrymade liquor/liquor. Therefore, the petitioner has not made out a case so as to grant relief sought in the present petition.

5. Heard learned counsels for the respective parties.

6. Undisputed facts are that petitioner was into the business of Wet Jaggery, Rawa, Raisins and Dry Yeast and other items. He is stated to have possessed in bulk quantity of the



above goods in the shop/ godown. The Excise/Police Authorities are of the view that petitioner was using the aforementioned goods for the purpose of liquor, therefore, case has been registered for the offences under Section 30(c)/41 of the Bihar Prohibition & Excise Act, 2016.

7. There is no iota of material evidence even to this day that petitioner had a link with the liquor manufacturer or he himself was involved in manufacture of countrymade liquor. That apart the respondents presumption or assumption that seized goods are not consumable. It is only a statement, on the other hand they should have subjected those seized goods for lab testing, so as to come to the conclusion that petitioner was holder of the aforementioned goods which are not consumable by consumer. In other words, the seized goods are stored and meant for manufacture of countrymade liquor/liquor. In the absence of lab test report in so far as seized goods that they are not consumable as on 11.03.2022 the date on which the case was registered for the offences under Section 30(c)/41 of the Bihar Prohibition & Excise Act, 2016 the statement that seized goods were stored for manufacture of countrymade liquor is incorrect. On this ground the petitioner has made out a case. Accordingly, the respondents are hereby directed to de-seal the



shops and godown and handover the premises within a period of four weeks. However, petitioner is not entitled to return of seized goods which are mentioned above, for the reasons that as on today they may not be consumable by a consumer having regard to the length of storage of those material in the shop or kept by the officials in their custody.

8. In this regard the petitioner is at liberty to initiate proceedings in claiming damages in accordance with law. However, in allowing the present writ petition, in so far as de-sealing the shop and godown would not be a hurdle for the respondents to proceed other cases like criminal proceedings, if any lodged against the petitioner to continue the same.

9. Accordingly, the present writ petition stands allowed in part.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

Prakash Narayan

U			
---	--	--	--

